

# EXHIBIT C

CAUSE NO. \_\_\_\_\_

LEE & CHARLETHA HENRY, § IN THE DISTRICT COURT OF  
PLAINTIFFS, §  
V. § OF HARRIS COUNTY, TEXAS  
ALLSTATE VEHICLE AND §  
PROPERTY INSURANCE COMPANY, §  
DEFENDANT. § \_\_\_\_\_ JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION**

Plaintiffs LEE & CHARLETHA HENRY ("Plaintiffs") file this Plaintiffs' Original Petition against Defendant ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY ("Defendant") and for cause of action would show the following:

**I. PARTIES**

1. Plaintiffs, LEE & CHARLETHA HENRY, are individuals residing in Harris County, Texas.
2. Defendant, ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY, is an insurance company doing business in the State of Texas and may be served with process by serving their registered agent C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201, or wherever they may be found.
3. In the event any parties are misnamed or are not included herein, Plaintiffs contend that such was a "misidentification," "misnomer," and/or that such parties are/were "alter egos" of the parties named herein.

**II. JURISDICTION**

4. The Court has jurisdiction over the lawsuit because the amount in controversy exceeds this court's minimum jurisdictional requirements.

5. Plaintiffs seek monetary relief from Defendant under \$100,000.00, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees. TEX. R. CIV. P. R. 47(C)(1).

### **III. VENUE**

6. Venue is permissive in Harris County under Texas Civil Practice and Remedies Code § 15.002(1) because all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County, Texas.

### **IV. DISCOVERY CONTROL PLAN**

7. Plaintiffs intend to conduct discovery under Discovery Plan III.

### **V. REQUEST FOR DISCLOSURE**

8. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendant disclose, within 50 days of service of this request, the information or material described in Rule 194.2(a)-(l).

### **VI. FACTUAL BACKGROUND**

9. During the spring of 2019, Plaintiffs' house at 5714 Ancient Oaks Dr., Humble, Harris County, Texas 77346 (the "Property") suffered an interior water leak at a second floor bathroom, causing damage throughout the Property's kitchen area (the "Incident").

10. At the time of the Incident, Plaintiffs insured the Property through Defendant.

11. Plaintiffs promptly notified Defendant of the Incident.

12. Since the time of the Incident, Plaintiffs have worked tirelessly to obtain full and proper coverage from Defendant.

13. Instead, Defendant has chosen to delay remediation at the Property and has refused to compensate Plaintiffs for their damages.

14. Defendant has given Plaintiffs the runaround for months, refusing to provide coverage and

assistance for Plaintiffs.

15. Despite Plaintiffs' payment for their insurance policy, Defendant refuses to honor that policy.

16. Currently, it will cost \$57,493.93 to repair the Property's kitchen.

17. These repairs require removal of cabinets, sheetrock, insulation, and other labor-intensive work.

18. All of the costs to repair the Property are Defendant's responsibility and obligation.

19. Plaintiffs have already had to live in the water-damaged Property for half a year, unable to fully use the kitchen

#### **VII. COUNT I- BREACH OF CONTRACT**

20. Plaintiffs incorporate all of the previous paragraphs by reference.

21. Plaintiffs and Defendant entered into an insurance policy whereby Defendant agreed to insure Plaintiffs' Property in exchange for Plaintiffs' payment of the insurance policy.

22. Defendant breached the contract by failing to cover the costs associated with fully remediating the Property.

23. Defendant's breach caused injury to Plaintiffs in the amount of at least \$57,493.93.

24. **ATTORNEY'S FEES.** Plaintiffs are entitled to recover reasonable and necessary attorney's fees under Texas Civil Practice and Remedies Code § 38.001(8). Plaintiffs have abided by the procedure found in Texas Civil Practice and Remedies Code § 38.002. Plaintiffs are also entitled to recover reasonable and necessary attorney's fees for any appeals.

#### **VIII. COUNT II- TEXAS DECEPTIVE TRADE PRACTICES ACT VIOLATIONS**

25. Plaintiffs incorporate all of the previous paragraphs by reference.

26. Plaintiffs are a consumer, as they purchased insurance from Defendant.

27. Defendant is a defendant who may be sued under the DTPA.

28. Defendant committed a wrongful act under Texas Business & Commerce Code § 17.50(a). Defendant engaged in a false, misleading, or deceptive act or practice included in the DTPA “laundry list” under Texas Business & Commerce Code § 17.46(b) that Plaintiffs detrimentally relied on. To wit, Defendant engaged in the following conduct:

- a. caused confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services; TEX. BUS. & COMM. CODE § 17.46(B)(2);
- b. caused confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another; TEX. BUS. & COMM. CODE § 17.46(B)(3);
- c. represented that goods or services had sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they did not have; TEX. BUS. & COMM. CODE § 17.46(B)(5);
- d. represented that goods or services were of a particular standard, quality, or grade, or that goods are of a particular style or model, when they were of another; TEX. BUS. & COMM. CODE § 17.46(B)(7);
- e. advertised goods or services with intent not to sell them as advertised; TEX. BUS. & COMM. CODE § 17.46(B)(9);
- f. represented that an agreement conferred or involved rights, remedies, or obligations which it did not have or involve, or which were prohibited by law; TEX. BUS. & COMM. CODE § 17.46(B)(12);
- g. knowingly made false or misleading statements of fact concerning the need for parts, replacement or repair service; TEX. BUS. & COMM. CODE § 17.46(B)(13);

- h. represented that a guaranty or warranty confers or involves rights or remedies which it does not have or involve; TEX. BUS. & COMM. CODE § 17.46(B)(20);
- i. represented that work or services had been performed on, or parts replaced in, goods when the work or services were not performed or the parts replaced; TEX. BUS. & COMM. CODE § 17.46(B) (22); and
- j. failed to disclose information concerning goods or services which was known at the time of the transaction when such failure to disclose such information was intended to induce Plaintiffs into a transaction into which Plaintiffs would not have entered had the information been disclosed; TEX. BUS. & COMM. CODE § 17.46(B)(24).

29. Defendant also committed unconscionable actions or courses of action under Texas Business and Commerce Code § 17.50(a)(3).

30. Defendant's violations of the DTPA were a producing cause of Plaintiffs' damages in an amount no less than \$57,493.93.

31. **DEFENDANT ACTED KNOWINGLY.** Defendant knowingly violated the DTPA because at the time of the act or practice complained of, Defendant acted with actual awareness of the falsity, deception, or unfairness of the act or practice under Texas Business & Commerce Code § 17.45(9).

32. **DEFENDANT ACTED INTENTIONALLY.** Defendant intentionally violated the DTPA because Defendant had actual awareness of the falsity, deception, or unfairness of the act or practice, or the condition, defect, or failure constituting a breach of warranty giving rise to the Plaintiffs' claim, coupled with the specific intent that the Plaintiffs act in detrimental reliance on the falsity or deception or in detrimental ignorance of the unfairness under Texas Business & Commerce Code § 17.45(13).

33. **ATTORNEY'S FEES.** Plaintiffs are entitled to recover reasonable and necessary attorney's fees under Texas Business & Commerce Code § 17.50(d). Plaintiffs are entitled to recover reasonable and necessary attorney's fees for any appeals.

**IX. COUNT III- COMMON LAW FRAUD**

34. Plaintiffs incorporate all of the previous paragraphs by reference.

35. Defendant made representations to Plaintiffs regarding the insurance sold and provided by Defendant for Plaintiffs' Property.

36. The representations made by Defendant were material and integral to Plaintiffs in purchasing insurance from Defendant.

37. The representations made by Defendant were false because the insurance did not provide relief that Defendant represented it would have.

38. When Defendant made the representations, Defendant either knew those representations were false or made the representations recklessly, as a positive assertion, and without knowledge.

39. Defendant intended for Plaintiffs to rely upon their representations.

40. Plaintiffs did indeed rely on Defendant's representations.

41. Defendant's representations caused injury to Plaintiffs in an amount no less than \$57,493.93.

**X. COUNT IV- VIOLATIONS OF TEXAS INSURANCE CODE**

42. Plaintiffs incorporate all of the previous paragraphs by reference.

43. Defendant violated Texas Insurance Code §§ 541.051-.061, 541.151-.152, which prohibit unfair insurance practices.

44. Defendant violated the requirements of Tex. Ins. Code Ann. §§ 542.051-.061 by failing to accept or reject Plaintiffs' claim or give Plaintiffs notice within the required time limits.

45. Specifically, Defendant misrepresented the terms and benefits of the insurance policy sold to Plaintiffs; did not, in good faith, effectuate a prompt, fair and equitable settlement; failed to provide anything in writing regarding the basis for their refusal to pay for damages covered by Plaintiffs' insurance policy; failed to properly investigate the claims of the Plaintiffs; and acted in bad faith in denying Plaintiffs' claims.

46. Based on the facts stated herein and any other information presented to this court, Defendant's actions were a direct and proximate cause of the damages Plaintiffs suffered.

#### **XI. REQUEST FOR EXEMPLARY DAMAGES**

47. Plaintiffs incorporate all of the previous paragraphs by reference.

48. Pursuant to Texas Civil Practice and Remedies Code Chapter 41, Plaintiffs seek an award of exemplary damages against Defendant.

49. Plaintiffs seek an award of exemplary damages against Defendant for their fraud committed against Plaintiffs.

50. Defendant's conduct was outrageous, malicious, or otherwise morally culpable, entitling Plaintiffs to an award of exemplary damages to deter such conduct in the future.

#### **XII. JURY DEMAND**

51. Plaintiffs demand a jury trial in this case pursuant to Texas Rule of Civil Procedure 216 and tender the appropriate fee with this petition.

#### **XIII. CONDITIONS PRECEDENT**

52. All conditions precedent to Plaintiffs' claim for relief have been performed or have occurred.



#### **XIV. PRAYER**

53. For these reasons, Plaintiffs ask that the Court issue citations for Defendant to appear and answer, and that Plaintiffs be awarded a judgment against Defendant for the following:

- a. Actual damages;
- b. Prejudgment and postjudgment interest;
- c. Court costs;
- d. Attorney's fees;
- e. Exemplary damages;
- f. Additional DTPA damages and treble damages;
- g. Expert costs;
- h. Loss of use for the Property and its improvements;
- i. Stigma damages to the Property;
- j. Out of pocket damages;
- k. Sunk costs;
- l. Cost of mitigation damages;
- m. Cost of substitute performance damages;
- n. Past and future mental anguish;
- o. Partial destruction of personal property- cost of repair and loss of use during repair;
- and
- p. And all other relief to which Plaintiffs are entitled.

Respectfully submitted,

**THE WELSCHER MARTINEZ LAW FIRM**

/s/ Nicholas Martinez

Craig Welscher

TBN: 21167200

Nicholas T. Martinez

TBN: 24087986

1111 North Loop West, Suite 702

Houston, Texas 77008

Phone. No.: (713) 862-0800

Facsimile No.: (713) 862-4003

Email: [nmartinez@twmlawfirm.com](mailto:nmartinez@twmlawfirm.com)

ATTORNEY FOR PLAINTIFFS

Unofficial Copy Office of Marilyn Burgess District Clerk

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

STYLED

Lee &amp; Charletha Henry v. Allstate Vehicle and Property Insurance Company

(e.g., John Smith v. All American Insurance Co. In re Mary Ann Jones. In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:	
Name:	Email:	Plaintiff(s)/Petitioner(s):		<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other:	
Nicolas Martinez	nmartinez@welscherlaw.com	Charletha Henry			
Address:	Telephone:	Defendant(s)/Respondent(s):		Additional Parties in Child Support Case:	
1111 North Loop West, Suite 702	713-862-0800	Allstate Vehicle and Property Insurance Company		Custodial Parent:	
City/State/Zip:	Fax:			Non-Custodial Parent:	
Houston, Texas 77008	713-862-4003			Presumed Father:	
Signature:	State Bar No:				
	24087986				
(Attach additional pages as necessary to list all parties)					
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil					
Contract		Injury or Damage		Real Property	
<input checked="" type="checkbox"/> Debt Contract <input type="checkbox"/> Consumer DTPA <input type="checkbox"/> Debit Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt Contract:		<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability:		<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property:	
Foreclosure		Product Liability		Related to Criminal Matters	
<input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure:		<input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Ashes/Silica <input type="checkbox"/> Other Product Liability List Product:		<input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other:	
Franchise		Other Civil		Marriage Relationship	
<input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:		<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property		<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <input type="checkbox"/> Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children	
Employment		Tax		Other Family Law	
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:		<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax:		<input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:	
Probate & Mental Health		Parent-Child Relationship		Title IV-D	
<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:		<input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child:		<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order	
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
4. Indicate damages sought (do not select if it is a family law case):					
<input checked="" type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					

## CIVIL PROCESS REQUEST

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING  
FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: \_\_\_\_\_ CURRENT COURT: \_\_\_\_\_

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Plaintiff's Original Petition with Request for Disclosure & Jury Demand

FILE DATE OF MOTION: 12/20/2019

Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY via its Registered Agent

ADDRESS: 1999 Bryan St., Ste. 900, Dallas, Texas 75201, or wherever they may be found

AGENT, (if applicable): C T Corporation System

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): Citation

SERVICE BY (check one):



ATTORNEY PICK-UP



CONSTABLE



CIVIL PROCESS SERVER - Authorized Person to Pick-up: Lucious Buggs, IV. Phone: (281) 250-6041



MAIL



CERTIFIED MAIL



PUBLICATION:

Type of Publication:



COURTHOUSE DOOR, or



NEWSPAPER OF YOUR CHOICE:



OTHER, explain Please place the issued Citation and Plaintiff's First Amended Petition in Civil Process Box #209 (Copy Quest Reproduction Services) and contact Lucious Buggs, IV. for pickup and Service.

\*\*\*\*\*

\*\*\*\*

2. NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AGENT, (if applicable): \_\_\_\_\_

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): \_\_\_\_\_

SERVICE BY (check one):



ATTORNEY PICK-UP



CONSTABLE



CIVIL PROCESS SERVER - Authorized Person to Pick-up: Lucious Buggs, IV. Phone: (281) 250-6041



MAIL



CERTIFIED MAIL



PUBLICATION:

Type of Publication:



COURTHOUSE DOOR, or



NEWSPAPER OF YOUR CHOICE:



OTHER, explain

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Nick Martinez TEXAS BAR NO./ID NO. 24087986

MAILING ADDRESS: 1111 North Loop West, Suite 702 Houston, Texas 77008

PHONE NUMBER: (713) 862-0800 FAX NUMBER: (713) 862-4003  
area code phone number area code fax number

EMAIL ADDRESS: service@welscherlaw.com

**MARILYN BURGESS**

HARRIS COUNTY DISTRICT CLERK

**Civil Process Pick-Up Form****CAUSE NUMBER 2019-89494****ATY****CIV X****COURT 189****REQUESTING ATTORNEY/FIRM NOTIFICATION****\*ATTORNEY: MARTINEZ NICHOLAS T****PH: 713-862-0800****\*CIVIL PROCESS SERVER: COPY QUEST REPRODUCTION FOR PICK UP: 209****\*PH: 281-250-6041****\*PERSON NOTIFIED SVC READY:****\* NOTIFIED BY:****\*DATE:** \_\_\_\_\_

Type of Service Document: Citation

Tracking Number 73707980

Type of Service Document:

Tracking Number

Type of Service Document: \_\_\_\_\_

Tracking Number \_\_\_\_\_

Type of Service Document: \_\_\_\_\_

Tracking Number \_\_\_\_\_

Type of Service Document: \_\_\_\_\_

Tracking Number \_\_\_\_\_

Type of Service Document: \_\_\_\_\_

Tracking Number \_\_\_\_\_

Process papers prepared by: C. Gilbert

Date: 12/20/19

30 DAYS WAITING 1/20/20

**\*Process papers released to:**Lucious G. Burgess

(PRINT NAME)

281 260 0041

\*(CONTACT NUMBER)

[Signature]

(SIGNATURE)

**\*Process papers released by:**Lisa Thomas

(PRINT NAME)

Lisa Thomas

(SIGNATURE)

**\* Date:** Dec 27, 2019Time: 11:25 AM / PM

**RECORDER'S MEMORANDUM**  
 This instrument is of poor quality  
 at the time of imaging.

Entire document must be completed (do not change this document) Revised 1/3/2019



CAUSE NO. 201989494

RECEIPT NO.

0.00

CIV

\*\*\*\*\*

TR # 73707980

PLAINTIFF: HENRY, LEE

vs.

DEFENDANT: ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY

In The 189th  
Judicial District Court  
of Harris County, Texas  
189TH DISTRICT COURT  
Houston, TX

## CITATION

THE STATE OF TEXAS  
County of HarrisTO: ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY  
BY SERVING ITS REGISTERED AGENT C T CORPORATION SYSTEM  
OR WHEREVER THEY MAY BE FOUND  
1999 BRYAN STREET SUITE 900 DALLAS TX 75201Attached is a copy of PLAINTIFF'S ORIGINAL PETITIONThis instrument was filed on the 20th day of December, 2019, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 23rd day of December, 2019, under my hand and seal of said Court.

Issued at request of:  
MARTINEZ, NICHOLAS THOMAS  
1111 NORTH LOOP WEST SUITE 702HOUSTON, TX 77008  
Tel: (713) 862-0800  
Bar No.: 24087986MARILYN BURGESS, District Clerk  
Harris County, Texas  
201 Caroline, Houston, Texas 77002  
(P.O. Box 4651, Houston, Texas 77210)Generated By: GILBERT, COURTNI NICOLE  
U5U//11405676

## OFFICER/AUTHORIZED PERSON RETURN

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_\_ M., on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Executed at (address) \_\_\_\_\_ in \_\_\_\_\_

County at \_\_\_\_\_ o'clock \_\_\_\_\_ M., on the \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_, by delivering to \_\_\_\_\_ defendant, in person, a

true copy of this Citation together with the accompanying \_\_\_\_\_ copy(ies) of the Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

FEE: \$ \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_ County, Texas

Affiant

By \_\_\_\_\_ Deputy

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the

CAUSE NO. 2019-89494

LEE HENRY

Plaintiff,

VS.

ALLSTATE VEHICLE AND PROPERTY INSURANCE  
COMPANY

Defendant.

§  
§  
§  
§  
§  
§

IN THE COURT OF

HARRIS COUNTY, TEXAS

189TH JUDICIAL DISTRICT

AFFIDAVIT OF SERVICE - CERTIFIED MAIL

"The following came to hand on Dec 27, 2019, 11:25 am,

CITATION, PLAINTIFF'S ORIGINAL PETITION,

and was executed on Thu, Jan 02 2020 by mailing to ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY THROUGH ITS REGISTERED AGENT C T CORPORATION SYSTEM at 1999 Bryan St SUITE 900, Dallas, TX 75201, by regular mail and by Certified Mail, Return Receipt Requested, Receipt No. 7018 3090 0001 8300 5894, a true copy of this citation.

The regular mail envelope was not returned. PS Form 3811 was returned on Jan 07, 2020 having been Signed on Jan 02, 2020 by Kim Hightower and is attached hereto.

I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."

My name is Lucious G. Buggs IV, my date of birth is 10/24/1970, and my address is 7535 Cypress Edge Dr, Cypress, TX 77433, and United States of America. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of TX, on January 09, 2020.



Lucious G. Buggs IV  
Certification Number: SCH 4127  
Certification Expiration: 08/31/2020

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Allstate Vehicle and Property Ins. Co            c/o C.T. Corporation System            1999 Bryant St. Suite 900            Dallas, TX 75201</p>		<p>B. Received by (Printed Name) <i>Kim Hightower</i></p>	
<p>2. Article Number (Transfer from service label)</p> <p>018 3090 0001 8300 5894</p>		<p>C. Date of Delivery            JAN 18 2020</p>	
<p>9590 9402 4667 8323 9552 93</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes            If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature  <input type="checkbox"/> Adult Signature Restricted Delivery  <input type="checkbox"/> Certified Mail  <input type="checkbox"/> Certified Mail Restricted Delivery  <input type="checkbox"/> Collect on Delivery  <input type="checkbox"/> Collect on Delivery Restricted Delivery  <input type="checkbox"/> Insured Mail  <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Priority Mail Express®  <input type="checkbox"/> Registered Mail™  <input type="checkbox"/> Registered Mail Restricted Delivery  <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Signature Confirmation™  <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	

Unofficial Copy Office of Maricopa Superior Court



CAUSE NO. 2019-89494

LEE & CHARLETHA HENRY,  
Plaintiffs,

V.

ALLSTATE VEHICLE AND  
PROPERTY INSURANCE COMPANY,  
Defendant.

IN THE DISTRICT COURT

189TH JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

**DEFENDANT'S ORIGINAL ANSWER AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY, Defendant in the above styled and numbered cause of action, and in response to the complaints filed against them, would respectfully show unto this Honorable Court and Jury as follows:

**I. GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every, all and singular, the allegations contained within Plaintiff's Original Petition, and demand strict proof thereon by a preponderance of the credible evidence in accordance with the Constitution and laws of the State of Texas.

**II. SPECIFIC DENIALS**

In addition to any Notice required by the applicable insurance policy, Defendant denies that Plaintiff provided the pre-suit Notice required by Chapter 542A.003 of the Texas Insurance Code and Texas Business & Commerce Code § 17.505 (Texas Deceptive Trade Practices Act). Plaintiff's failure to provide the required notice under §542A.003 prior to the filing of this action constitutes a breach of that statute. Because Plaintiff's failed to give the notice required by §542A.003(b)(2) before filing this action, Plaintiffs are not entitled to recover attorneys' fees

incurred after the date this defense was pled.

Plaintiffs' claims are barred, in whole or in part, by policy exclusions and/or limitations which are listed in the policy made the basis of this suit. All or part of Plaintiff's claims are excluded by the applicable insurance policy.

Plaintiffs failed to allege conduct warranting imposition of exemplary or punitive damages under applicable state law. Defendant asserts the limitations and restrictions contained in Chapter 41 of the Texas Civil Practice and Remedies Code.

Defendant hereby gives notice that it intends to rely upon such other defenses as may become available or apparent during the course of discovery and thus reserves its right to amend this answer.

### **III. REQUEST FOR DISCLOSURE**

Pursuant to Texas Rules of Civil Procedure, Defendant requests that Plaintiff disclose within thirty days of service of this request, the information and material described in Rule 194.2(a) through (1). If this case was filed as an Expedited Action under TRCP 47(c)(1) and/or TRCP 190.2, Defendant further requests disclosure of any and all documents, electronic information, and tangible items that you have in your possession, custody or control and which may be used to support your claims or defenses.

### **IV. JURY DEMAND**

Defendant formally requests a jury trial pursuant to Rule 216 of the Texas Rules of Civil Procedure and tenders the jury fee.

### **V. DESIGNATED E-SERVICE EMAIL ADDRESS**

The following is the undersigned attorney's designation of electronic service email address for all electronically served documents and notices, filed and unfiled, pursuant to Tex.R.Civ.P. 21(f)(2) & 21(a). (HoustonLegal@allstate.com). This is the undersigned's ONLY electronic

service email address, and service through any other email address will be considered invalid.

**VI. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendants, ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY, prays that the Plaintiff recover nothing of and from the Defendants by reason of this suit, that Defendants be discharged without delay, with costs of court, and for such other and further relief, both general and special, at law and in equity, to which Defendants may show itself justly entitled, and for which Defendants will in duty bound, forever pray.

Respectfully submitted,

SUSAN L. FLORENCE & ASSOCIATES



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**MICHAEL MAUS**

TBN: 24008803

811 Louisiana St Ste 2400

Houston, TX 77002-1401

[HoustonLegal@allstate.com](mailto:HoustonLegal@allstate.com)

(713) 336-2842

(877) 684-4165 (fax)

ATTORNEY FOR DEFENDANT  
ALLSTATE VEHICLE AND PROPERTY  
INSURANCE COMPANY

**CERTIFICATE OF SERVICE**

Pursuant to Rules 21. and 21a. of the Texas Rules of Civil Procedure, I hereby certify that the original of Defendants' Original Answer has been filed with the clerk of the court in writing, and a true and correct copy of Defendants' Original Answer has been delivered to all interested parties on the 13<sup>th</sup> day of January, 2020, to:

Nicholas T. Martinez  
THE WELSCHER MARTINEZ LAW FIRM  
1111 North Loop West, Suite 702  
Houston, Texas 77008  
Email: nmartinez@twmlawfirm.com

ATTORNEY FOR PLAINTIFFS

**VIA E-SERVE**



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**MICHAEL MAUS**

**CAUSE NO. 2019-89494**

**LEE & CHARLETHA HENRY,** § **IN THE DISTRICT COURT OF**  
**PLAINTIFFS,** §  
§  
**V.** § **OF HARRIS COUNTY, TEXAS**  
§  
**ALLSTATE VEHICLE AND** §  
**PROPERTY INSURANCE COMPANY,** §  
**DEFENDANT.** § **189<sup>TH</sup> JUDICIAL DISTRICT**

**CERTIFICATE OF WRITTEN DISCOVERY**

TO: Defendant, ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY, by and through their attorney of record, Michael Maus, SUSAN L. FLORENCE & ASSOCIATES, 811 Louisiana St., Ste. 2400, Houston, Texas 77002.

Pursuant to Texas Rules of Civil Procedure, Plaintiffs, LEE & CHARLETHA HENRY, certify they have served the following discovery requests on Defendant:

- 1. Plaintiffs' Requests for Disclosure to Defendant;***
- 2. Plaintiffs' Requests for Admission to Defendant;***
- 3. Plaintiff Lee Henry's First Set of Written Interrogatories to Defendant; and***
- 4. Plaintiffs' Requests for Production to Defendant.***

This Certificate of Written Discovery along with a copy of the responses was served upon all known counsel or parties listed below.

Respectfully submitted,

**THE WELSCHER MARTINEZ LAW FIRM**

/s/ Nicholas Martinez

Craig Welscher

TBN: 21167200

Nicholas T. Martinez

TBN: 24087986

1111 North Loop West, Suite 702

Houston, Texas 77008

Telephone: (713) 862-0800

Facsimile: (713) 862-4003

Email: [nmartinez@twmlawfirm.com](mailto:nmartinez@twmlawfirm.com)

**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument was forwarded to all known counsel of record in the manner required by the Texas Rules of Civil Procedure, on this the 14<sup>th</sup> day of January, 2020.

**Via Electronic Service**

Michael Maus

Susan L. Florence & Associates

811 Louisiana St., Ste. 2400

Houston, Texas 77002

*Attorney for Defendant*

/s/ Nicholas Martinez

Nicholas T. Martinez